

Subject: omb

## **Subject:: IRS 1040 found not legal in Court**

Dear Group,

Once and for all the truth in court has prevailed regarding the infamous 1040 form. As the email below this article will state, the 1040 form was never validated by congress by correctly formatting or creating statutes or any other regulations to validate the 1040 form as the absolute correct form for us as citizens of the United States of America to have to mandatorily use. Our government has let the IRS get away with this violation of law for decades. WHY??? What else the almighty TAX DOLLAR!!!! (Pull up Grace Commission Report on internet to validate no taxes we pay goes to the US Treasury, it all goes to the Federal Reserve Bank, a private bank).

If the truth as it has finally been brought to light had been known by our forefathers as well as ourselves, we would of course refused to use an illegal document that requires us to sign under duress because of the penalty of perjury signature. Now that this has been put on Public Record we all can use it to better our position of validating that we as Citizens of the States, living in the United States of America, are not required to file using the 1040 form. So, since this is true and if we really are required to file, what form are we to use????????? The simple secret is we are not required to use any form because our source of income is not a taxable source, if it is, then what form are we to use since the 1040 form is not a legal form for us to use???

Can we be compensated for the illegal use of this form forced upon us by the strong-arming of the IRS with the permission of our own government?? Yes, we can. Please see Title 26 sections 7214 and 7433 of the Internal Revenue Code. Of course by using these codes we would be required to have to go to court so the big question is, is there an administrative remedy that can get us our just compensation for the illegal actions of the IRS??? YES THERE IS !!!!!!!!!!!

Since the IRS is a foreign corporation from Puerto Rico and by forcing us to pay taxes by illegal liens, levies, and garnishments and the now illegal 1040 form, according to the Supreme Court Case of Cleopatra Haslipetal. v Pacific Mutual Life Insurance Inc,(See attachment) compensatory damages and Punitive damages can be acquired. **For further information call 480-558-3346.**

There is one statement I have always adhered to and now with this new case coming to the forefront ha been confirmed "THE TRUTH SHALL MAKE YOU FREE". It is truly wonderful that by the true due diligence of the fine people in the article below, this statement has magnified itself. Always the true truth can and does provide you with the freedom we all deserve.

May the Lord continue to allow the truth to be resurrected and discovered so that the creators of our governments wonderful Constitution of our Rights can continue to validate that government is to be used to help the people not to rule and destroy them.

Les H/ Father of 10

.Date: Mon, 23 May 2005 17:29:45 -0700 (PDT)

Sent: Saturday, May 21, 2005 10:37 PM  
Subject: [citizensoftheUSofA] In case you've not seen it.

Add Yourself to Our e-Mail List!

May 21, 2005

**Hard Evidence That Form 1040  
Has NO Legal Basis In Law**

**IRS Withdraws Criminal Allegation,  
Tax Convict Walks Free**

Although the People's war against the income tax fraud and IRS abuse has been lengthy and daunting and has left many freedom fighters across our nation battered and bankrupt, there are continuing signs that the tide of tyranny may finally be meeting effective resistance.

On April 12th 2005, William Wallace Lear of Muskegon Michigan appeared in federal District Court in Grand Rapids to face IRS charges claiming Lear had violated the terms of his probation. William Lear had served one year in a federal detention facility in Minnesota following his conviction in 2002 for Willful Failure to File income tax returns (a misdemeanor). His probation began in March, 2004.

The basis for the probation violation hearing was an IRS claim that Lear failed to abide by the strict terms of his probation which included the requirement that he file all his delinquent tax returns and pay all back taxes and penalties owed.

Just as the hearing before Judge Gordon Quist began, the DOJ attorneys moved to dismiss the IRS's probation violation claim against Lear that would have sent him back to prison.

Although Lear had filed his missing returns signing them "under duress" (which IRS does not allow) and failed to pay the taxes owing on those returns, Judge Quist signed an order, completely releasing Lear from federal custody. As of April 12th, Lear has been a free man.

An important question remains: Why? Why would the IRS and DOJ walk away from a golden opportunity to make headlines and send a convicted tax protester back to prison?

Before answering the question, let's review some of the key developments leading up to the April 12, 2005 probation violation hearing.

After serving his 1-year sentence and after his return to his home in Michigan to fulfill his probation, Bill Lear and his wife Rose "dug back in" and continued to review the extensive body of legal research that had originally caused Bill Lear not to file.

During the summer of 2004, they constructed a "Challenge of Authority" document relying on legal material from various sources including comprehensive research posted by WTP in May 2004 and that has since been sent repeatedly by the Foundation (and others) to various officials of the U.S. government, including the President's current Advisory Panel on Federal Tax reform.

This research conclusively documents that IRS has no legal authority to impose taxes on the wages and salaries of ordinary Americans. Particularly damaging in the challenge was recently archived documentation from the government itself clearly showing that IRS Form 1040 is a "proposed" information form and that there is no legal authority cited for its use.

On October 4, 2004, during a meeting in the offices of their Congressional Representative Peter Hoekstra, the Lears formally served their Challenge of Authority on three IRS agents and engaged in a significant discussion about the limits of their authority. The IRS agents refused to respond to the challenge document simply stating that it is not the "practice" of IRS to respond to such requests.

What the agents did not know, however, was that two weeks earlier, on September 24th, the Lears had also filed the same document as a formal public legal record in their local county courthouse at the Registrar of Deeds.

On February 28, 2005, after additional contacts with IRS officials in which Bill Lear repeatedly asked for IRS to provide specific legal guidance to him so he could know which tax form the law required him to fill out, and thereby comply with the terms of his probation, the Lears again confronted the IRS agents in a meeting in Rep. Hoekstra's office.

At that meeting, and after a heated discussion with IRS agents, confronting them with government documents and evidence clearly showing Form 1040 has no authority in law, IRS ended the discussion and told Lear that the law required him to use "Form 1040" to file his returns.

Frustrated into agitation with the exchange, IRS Agent J. McWilliams finally stated that Lear "wasn't cooperating with the IRS", and that Lear was "going back to prison."

On March 2, and just days before Lear's probation was due to expire, IRS filed a probation violation complaint with the federal probation office. Lear was promptly served Notice of the hearing that could send him back to prison.

On March 4, the Lears filed a Habeas Corpus regarding the original conviction.

On March 9, Lear filed a pleading answering the alleged violation of probation.

On March 10, Lear also decided to "hedge his bet" and filed the delinquent tax returns, but signed the tax forms "under duress."

On March 14, 2005 - Lear appeared before Magistrate Joseph G. Scoville who found cause for the violation and sent the case to Judge Quist for a formal hearing.

It should be noted that IRS routinely rejects tax returns signed "under duress" due to the obvious due process implications related to the use of force, threat of force, or other intimidation to coerce an individual to swear to a statement made under "penalties of perjury." It should be further noted that although required by the terms of his probation, Lear did not make any payment toward the alleged taxes or penalties due for the returns he was convicted for willfully failing to file.

Finally, on March 21st, the Lears filed a Motion to Quash the Release Revocation Hearing. Contained within this motion was the formal "Challenge of Authority" document that had been previously recorded in their local county courthouse as a legal public record.

On April 12, Lear and his wife Rose appeared in court for Bill's probation violation hearing.

Instead of publicly confronting the merits of the alleged probation violation and asking the court to send a "recalcitrant tax convict" back to prison, attorneys for the DOJ and IRS withdraw their complaint alleging the probation violation.

#### WHY?

Because under Rule 902 of the Federal Rules of Evidence, a court cannot deny the admissibility of relevant evidence consisting of certified copies of public legal records as they are presumed to be self-authenticating and valid as evidence.

Here is the text of Rule 902, sub-paragraph (4):

Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the following:

(4). Certified copies of public records. A copy of an official record or report or entry therein, or of a document authorized by law to be recorded or filed and actually recorded or filed in a public office, including data compilations in any form, certified as correct by the custodian or other person authorized to make the certification.

In other words, in facing a public criminal hearing where the contents of Lear's "Challenge of Authority" were, without argument, directly relevant to Lear's alleged violation, and knowing the District Court could not deny their admittance as evidence, the DOJ was faced with two unpleasant alternatives: either A) produce IRS witnesses to explain away government documentation clearly showing IRS Form 1040 is not a legally authorized form, or B) walk away from the probation violation hearing.

IRS walked.

Rather than take a potential headline-making opportunity to publicly chastise and send a convicted tax protester who had dared – even after conviction -- to continue questioning the legal authority of the government back to prison, the IRS and DOJ instead withdrew their criminal complaint, thereby avoiding having to confront – on the record – the damning evidence contained in Lear's formal "Challenge of Authority" document.

By withdrawing the IRS complaint against Lear, DOJ avoided having to publicly rebut Lear's legal research and avoided being forced to cite the government's legal authority to enforce the federal income tax.

On April 25th, despite the facts that Lear had filed defective returns signed "under duress" and also failed to pay the taxes and penalties owed for the returns he was convicted for failing to file, Judge Quist signed a formal order completely freeing Bill Lear from the terms of his probation.

The Sixth Circuit Court of Appeals in Cincinnati, Ohio is currently considering whether to certify Lear's most recent Habeas Corpus motion to vacate his conviction. That motion is also based upon the new legal research contained in his "Challenge of Authority."

## The Hard Evidence That Form 1040 Has No Legal Authority

In their "Challenge of Authority" document, the Lears provide hard documentary evidence that IRS Form 1040 has NO legal authority.

This evidence was presented by contrasting archived government documents that have been filed pursuant to the federal Administrative Procedures Act (APA) and Paperwork Reduction Act (PRA).

Under the PRA, each and every government form that is used to collect information from the general public under law must be linked to its authorizing statutes and implementing regulations and have a valid Office of Management and Budget "OMB" Form number. This requirement of law provides an orderly means to identify which statutes, regulations and forms are related.

As one item of evidence, the Lears produced a stamped copy of a 1987 Treasury Department document entitled, "Request for OMB Review" which is required by the Paperwork Reduction Act. The request was for IRS Form "1040-NR", the tax form used by Non-Resident Aliens to report their "income".

Several things about this document are noteworthy:

The form used for the request is OMB Form "83"

On line 5 of Form 83, the administrative requester is required to cite the statutes actually authorizing the collection of the information. The authorizing statutes are, in fact, cited.

On line 27 of Form 83, the administrative requester is required to cite the regulations actually authorizing the collection of the information. The authorizing regulations are, in fact, cited.

[Click Here to See the "OMB Form 83" Treasury request for IRS Form 1040-NR for use by Non-Resident Aliens](#)

Here's where it gets very interesting:

The "Challenge of Authority" document also contains a similar Treasury PRA request from 1996, but this one is for the "regular" IRS Individual Form 1040 that millions of Americans file each year.

This Treasury administrative request is not made on OMB "Form 83" ---- but rather using an alternate OMB form, "83-1" titled, "Paperwork Reduction Act Submission".

Several very important differences between the OMB request forms need to be noted:

OMB Form 83-1 does NOT require any specific citation of statutory authority.

OMB Form 83-1 does NOT require any specific citation of regulatory authority.

In the "Certification" box found on page 2 of Form 83-1, there are specific references to both PRA Regulations "5 CFR 1320.9" and "5 CFR 1320.8(b)(3)."

The attachments to this OMB Form 83-1 request consist primarily of a

list of Title 26 (Income Tax) regulations and statutes that are merely (quoting) "associated" with IRS Form 1040.

[Click here to see the Treasury request using OMB Form 83-1 for the IRS Individual "Form 1040"](#)

Here's the punch line:

IRS Form 1040-NR (for Non-Resident Aliens) is certified as complying with the requirements of the PRA found at regulation 5 CFR 1320.8. In its request to the OMB for IRS Form "1040-NR", the Department of Treasury (IRS) clearly cites both the statutory and regulatory authorities authorizing the use of the form to collect information and certifies its request as such.

[Click Here to read the Paperwork Reduction Act \(PRA\) form disclosure requirements found at 5 CFR 1320.8.](#)

Please specifically note that for the Treasury's request using alternative OMB Form 83-1 for IRS Individual Form 1040, the Treasury has formally certified the request under regulation 5 CFR 1320.9, which is explicitly reserved for "PROPOSED" government forms.

Printed just below is the title header for federal regulation "5 CFR 1320.9":

[Code of Federal Regulations]  
[Title 5, Volume 3]

[Revised as of January 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 5 CFR 1320.9]

[Page 155]

## TITLE 5--ADMINISTRATIVE PERSONNEL

### CHAPTER III--OFFICE OF MANAGEMENT AND BUDGET

#### PART 1320\_CONTROLLING PAPERWORK BURDENS ON THE PUBLIC--Table of Contents

Sec. 1320.9 Agency certifications for proposed collections of information.

As part of the agency submission to OMB of a proposed collection of information, the agency (through the head of the agency, the Senior Official, or their designee) shall certify and provide a record supporting such certification) that the proposed collection of information [...]

In short, if IRS Individual Form 1040 were actually authorized under U.S. law, the Department of Treasury would have submitted it for OMB certification using OMB "Form 83" which requires explicit citation of the form's authorizing statutes and regulations.

Instead, the IRS used alternative OMB Form "83-1" -- which is designated ONLY for "proposed" government forms – and which does NOT require any formal citation of legal authority allowing its use.

Furthermore, even though an attachment to the Treasury's request for IRS Form 1040 (on OMB Form 83-1) contains a lengthy list of statutes

and regulations, and "Box 12" on the form is marked indicating the form is "mandatory", a careful reading of the submission to OMB will make it clear that the Department of Treasury is ONLY certifying that:

Form 1040 is a "proposed form" and that, IF authorized, it would meet the collection criteria established by regulation 5 CFR 1320.9, and

That Form 1040 is only "associated" with the statutes and regulations cited in the 1040 request, and

If Form 1040 were actually authorized by law, it would be "mandatory".

As a final observation, it should be noted that both the 1987 Form 1040-NR request as well as the 1996 Form 1040 request were signed by the same IRS officials, one Garrick R. Shear, the IRS Reports Clearance Officer and one Lois K. Holland as/for the Departmental Reports Management Officer. Lear's pleadings contain additional OMB certifications, also signed by Shear & Holland.

In short, the Department of Treasury's clear and willful intent to use OMB Form 83-1 (rather than OMB Form 83) to legally certify IRS Individual Form 1040 as a valid government document, is compelling proof establishing that IRS Form 1040 is merely a PROPOSED tax form, and that there is NO LEGAL AUTHORITY that authorizes its use.

A Nation of Law?

**Who is going to Police the federal judges to see that they do their duty? Do you think that 'JAIL' (Judicial Accountability, etc.) will ever pass?**

**Subject:** FW: States & Agents NOT Immune To Suit...

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From: *edj* <[edj@net-link.net](mailto:edj@net-link.net)>  
To: *Allen Metzger* <[allenmetzger@charter.net](mailto:allenmetzger@charter.net)>  
Subject: *States & Agents NOT Immune To Suit...*  
Date: *Mon, 19 Sep 2005 16:43:05 -0400*

Message: 2  
Date: Sun, 18 Sep 2005 18:44:55 -0000  
From: "John Hughes" <[jeffecito@dslextreme.com](mailto:jeffecito@dslextreme.com)>  
Subject: States & Agents NOT Immune To Suit

I found the following on [www.landrights.com](http://www.landrights.com)

Normally, a state asserts the "11th Amendment" immunity privilege against lawsuits, and walks away from almost every conceivable type of action for violating common sense and people's rights, thereby

continuing the myth that there's really not much that can be done about the horrors of social injustice, except lobbying, petitioning, and other types of slow, lame, and tame methods that account for very little change, if at all...

NOTHING COULD BE FURTHER FROM THE \*REAL\* TRUTH OF WRITTEN FEDERAL LAW!

Here's the gist of the real truth: States ARE typically immune from suit, but they are expressly NOT immune from suits involving situations related to incidents involving ANY program that receives assistance in federal funding!!! (In other words, virtually everything associated with "family courts", including judges, social workers, agencies, and the entire processes themselves...) See the first paragraph of 42 USC 2000d to learn the TRUTH!

Below is a large list of federal laws that specifically WAIVE state immunity whenever there is discrimination on race, color, religion, age, sex, handicap, national origin, and other forms, and/or violations of civil and/or constitutional rights, and/or violations against their own duties under law... and still, there are even more such "exceptions". The below is only a sampling...

These laws provide TWO things: (1) they establish a federal \*right\*, and (2) they open a door for suit.

The wide-open definition of what state "programs or activities" are open to suit is 42 USC 2000d-4a

(Note: all of the following hyperlinked constitutional amendments, laws, and US Supreme Court case decisions come from:  
<http://www.law.cornell.edu> and <http://www.findlaw.com>

When state officials, officers, and/or employees have violated your civil rights, they have committed a breach of 18 USC 242 (the individual criminal act against civil rights); If they acted together in any way, then it has become a breach of 18 USC 241 (the criminal conspiracy...); Violation of 242 is punishable by up to ONE YEAR in fed prison, while violation of 241 is punishable by up to TEN YEARS in fed prison... (i.e., it really IS a \*federal crime\* to violate, deprive, or interfere with ANY civil rights, OR any "regular" rights secured by ANY federal law)

This includes violating not only your more commonly known "Constitutional Rights", but also the various civil rights and "regular" statutory rights that are sampled below for you... (AGAIN, there are MORE of them, and they were meant to protect you!). See also 28 USC 1652

IMPORTANT TO KNOW!: Since WE are not official government prosecutors, WE cannot directly file charges against those wayward government officers ourselves... BUT, under federal law, we COULD force federal judges to have them arrested and prosecuted! After anyone violates any of your civil rights (see 18 USC 241 and 242 above, and this entire page...), YOU do your duty to report the crime directly to (any) federal judge, under 18 USC 4, then the federal statute 42 USC 1987 legally forces the federal judge to ensure criminal prosecutions. Note: this federal statute has been revised several times over the years, so to the average layman there would not readily appear to be any so-called "right" to actually enforce such prosecution, but click on the "Notes" link to the right of the main statute body, and see the (last sentence of

the) "References in Text", which confirms that the "Revised Statutes" discussed in the main statute do INDEED mean guaranteed prosecution for crimes under 18 USC 241 and 242 - i.e., for ALL crimes against (i.e., ANY deprivations of) our various rights!!!

But, seeking criminal prosecutions are remedies that are in addition to the option of personally suing for monetary damages under any and/or all of the following civil laws (and - again - there are others...):

42 USC 1981 Equal rights under the law

42 USC 1983 Civil action for deprivation of rights (the typical "1983" action comes from this statute)

42 USC 1985 Conspiracy to interfere with civil rights

42 USC 1986 Action for neglect to prevent (i.e., to prevent interference with civil rights)

42 USC 1988 Proceedings in vindication of civil rights

42 USC 2000b-2 Personal suits for relief against discrimination in public facilities (like state courts!!!!)

42 USC 2000d Prohibition against exclusion from participation in, denial of benefits of, and discrimination under federally assisted programs on ground of race, color, or national origin (NOTE: the US Supreme Court has added "sex" [gender] to the list of discrimination types this law prohibits... NOTE: "federally assisted programs" are all over the place within every state's systems, with matching funds being paid to the states for all kinds of things for courts, prosecutors, and virtually all state agencies!!! Get the picture? Legally, they're ALL on the hook!)

42 USC 2000d-7 Civil rights remedies equalization this is what is quoted at top... NOTICE the "all-encompassing" part that says: "or the provisions of any other Federal statute prohibiting discrimination by recipients of Federal financial assistance."

of course, the rights to press criminal charges, and the rights to file suit for damages, also includes ALL of your rights guaranteed under the US Const, especially: the 1st through 10th Amendments <the general "Bill of Rights" plus the 14th Amendment <which duplicates some of the 5th Amend and adds more, [i.e., Privileges and Immunities, Due Process, Equal Protection]

plus - ANY and ALL rights existing just under federal law (US Code), including, but not limited to just the various rights sampled for you below (again, and again - there's a LOT more...!), regarding your rightful treatment by, and lawful behavior by, a state court, virtually ANY state agency, CPS and other forms of caseworkers/social workers, prosecutors, and just about every other state employee of the types that we don't especially care for...

All that is required is to determine which TWO federal statutes apply to particular situations (our arguments) - the statute(s) that provide federal funding for the questioned "program or activity", and the related statute that prohibits discrimination in that "program or activity"...

Part of our complaints are "global" actions for, essentially, instant removal of all state family court cases to the jurisdiction

of federal courts (based on the numerous common civil rights violations), under 28 USC §§ 1441 and 1443, while another large part of our complaints are our solid constitutional arguments regarding all "fit" parents' natural, and equal, fundamental rights to the "care, custody, and management" of their children.

Here are some examples of the various rights that we all have under federal law (US Code) - again, this does NOT include all of the various Constitutional Rights, which will also be used, of course:

1. Petitioner's Class have inherent federal question rights, under the guarantees of 42 USC § 2000a, to full and equal lawful treatment in a state court of law, and according to the various protections under the U.S. Constitution.

2. Petitioner's Class have inherent federal question rights, under the protections of the Civil Rights Act of 1964, 42 USC § 2000d, et seq., and as interpreted by the U.S. Supreme Court to include prohibitions against discrimination based on sex or gender, to now remove all suspect instant state proceedings, under 28 USC §§ 1441 and 1443, in order to be free from the denial of such equal civil rights and treatment established by the above allegations. See also 42 USC § 2000d-7.

3. Petitioner's Class have inherent federal question rights, under the protections of 42 USC §§ 3617 and 3631, which include prohibitions against discrimination based on sex or gender, to remove all suspect instant state proceedings, under 28 USC §§ 1441 and 1443, in order to be free from the denial of such equal civil rights and treatment established by the above allegations. See also 42 USC § 2000d-7.

4. Petitioner's Class have further inherent federal question rights, under the protections of 42 USC § 5891, which include prohibitions against discrimination based on sex or gender regarding other matters and allegations expressed supra, to remove all suspect instant state proceedings, under 28 USC §§ 1441 and 1443, in order to be free from the denial of such equal civil rights and treatment established by the above allegations. See also 42 USC §§ 5106a (Grants to States for child abuse and neglect prevention and treatment programs), 5106c (Grants to States for programs relating to investigation and prosecution of child abuse and neglect cases), 10406 (Discrimination prohibited in Family Violence Prevention and Services), 10420 (Safe havens for children pilot program), 10701 (Definitions - regarding state activity in domestic violence, false imprisonment, and abuse of a minor), and etc.

5. Petitioner's Class have further inherent federal question rights not to be discriminated as articulated according to the above allegations, and against the expressed public policy of the United States of America, by and through certain Acts of Congress strictly specifying the critical value of protecting children, youth, and family bonds, and the joint responsibilities of federal courts therein. See 42 USC §§ 12301, 12351, 12352, 12371, 12635, and etc.

6. Petitioner's Class have further inherent federal question rights to ensure that their minor children are free from experiencing abuse and/or neglect, due to unlawful sex or gender discrimination in awards of child custody, and to ensure that any involved state judicial systems have met or exceeded their required corresponding duties under 42 USC §§ 13001, 13003, 13021, 13031, and etc.

7. Petitioner's Class have further inherent federal question rights, under 42 USC § 14141, to be free from unlawful violations of civil rights committed by any parties, government or otherwise, involved in such state proceedings.

The common result ?

There are many wide-open doors to sue the states for violating their

duties and our rights, and there is absolutely NO immunity for the states, in ANY way, shape, or form...

Subject: 44usc

[TITLE 44 - PUBLIC PRINTING AND DOCUMENTS](#)  
[CHAPTER 35 - COORDINATION OF FEDERAL INFORMATION POLICY](#)

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*U.S. Code as of: 01/26/1998*

## **Sec. 3512. Public protection**

(a) Notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information that is subject to this chapter if -

(1) the collection of information does not display a valid control number assigned by the Director in accordance with this chapter; or

(2) the agency fails to inform the person who is to respond to the collection of information that such person is not required to respond to the collection of information unless it displays a valid control number.

(b) The protection provided by this section may be raised in the form of a complete defense, bar, or otherwise at any time during the agency administrative process or judicial action applicable thereto.

**Source**

(Added Pub. L. 104-13, Sec. 2, May 22, 1995, 109 Stat. 181.)

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### PRIOR PROVISIONS

A prior section 3512, added Pub. L. 96-511, Sec. 2(a), Dec. 11, 1980, 94 Stat. 2822, related to protection of persons failing to maintain or provide information if information collection request did not display current control number prior to the general amendment of this chapter by Pub. L. 104-13.

Another prior section 3512, added Pub. L. 93-153, title IV, Sec. 409(b), Nov. 16, 1973, 87 Stat. 593, related to information for independent regulatory agencies, prior to the general amendment of this chapter by Pub. L. 96-511.

### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 57b-2; title 31 section 3811.

## TITLE 50, APPENDIX 7

### **§ 7. Lists of enemy or ally of enemy officers, directors or stockholders of corporations in United States; acts constituting trade with enemy prior to passage of Act; conveyance of property to custodian; voluntary payment to custodian by holder; acts under order, rule, or regulation**

(a) Every corporation incorporated within the United States, and every unincorporated association, or company, or trustee, or trustees within the United States, issuing shares or certificates representing beneficial interests, shall, under such rules and regulations as the President may prescribe and, within sixty days after the passage of this Act [Oct. 6, 1917] and at

such other times thereafter as the President may require, transmit to the alien property custodian a full list, duly sworn to, of every officer, director, or stockholder known to be, or whom the representative of such corporation, association, company, or trustee has reasonable cause to believe to be an enemy or ally of enemy resident within the territory, or a subject or citizen residing outside of the United States, of any nation with which the United States is at war, or resident within the territory, or a subject or citizen residing outside of the United States, of any ally of any nation with which the United States is at war, together with the amount of stock or shares owned by each such officer, director, or stockholder, or in which he has any interest.

The President may also require a similar list to be transmitted of all stock or shares owned on February third, nineteen hundred and seventeen, by any person now defined as an enemy or ally of enemy, or in which any such person had any interest; and he may also require a list to be transmitted of all cases in which said corporation, association, company, or trustee has reasonable cause to believe that the stock or shares on February third, nineteen hundred and seventeen, were owned or are owned by such enemy or ally of enemy, though standing on the books in the name of another: *Provided, however,* That the name of any such officer, director, or stockholder, shall be stricken permanently or temporarily from such list by the alien property custodian when he shall be satisfied that he is not such enemy or ally of enemy.

Any person in the United States who holds or has or shall hold or have custody or control of any property beneficial or otherwise, alone or jointly with others, of, for, or on behalf of an enemy or ally of enemy, or of any person whom he may have reasonable cause to believe to be an enemy or ally of enemy and any person in the United States who is or shall be indebted in any way to an enemy or ally of enemy, or to any person whom he may have reasonable cause to believe to be an enemy or ally of enemy, shall, with such exceptions and under such rules and regulations as the President shall prescribe, and within thirty days after the passage of this Act [Oct. 6, 1917], or within thirty days after such property shall come within his custody or control, or after such debt shall become due, report the fact to the alien-property custodian by written statement under oath containing such particulars as said custodian shall require. The President may also require a similar report of all property so held, of, for, or on behalf of, and of all debts so owed to, any person now defined as an enemy or ally of enemy, on February third, nineteen hundred and seventeen: *Provided,* That the name of any person shall be stricken from the said report by the alien property custodian, either temporarily or permanently, when he shall be satisfied that such person is not an enemy or ally of enemy. The President may extend the time for filing the lists or reports required by this section for an additional period not exceeding ninety days.

(b) Nothing in this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] contained shall render valid or legal, or be construed to recognize as valid or legal, any act or transaction constituting trade with, to, from, for or on account of, or on behalf or for the benefit of an enemy performed or engaged in since the beginning of the war and prior to the passage of this Act [said sections] or any such act or transaction hereafter performed or engaged in except as authorized hereunder, which would otherwise have been or be void, illegal, or invalid at law. No conveyance, transfer, delivery, payment, or loan of money or other property, in violation of section three hereof [section 3 of this Appendix], made after the passage of this Act [Oct. 6, 1917] and not under license as herein provided shall confer or create any right or remedy in respect thereof; and no person shall by virtue of any assignment, indorsement, or delivery to him of any debt, bill, note, or other obligation or chose in action by, from, or on behalf of, or on account of, or for the benefit of an enemy or ally of enemy have any right or remedy against the debtor, obligor, or other person liable to pay, fulfill, or perform the same unless said assignment, indorsement, or delivery was made prior to the beginning of the war or shall be made under license as herein provided, or unless, if made after the beginning of the war and prior to the date of passage of this Act [Oct. 6, 1917], the person to whom the same was made shall prove lack of knowledge and of reasonable cause to believe on his part that the same was made by, from or on behalf of, or on account of, or for the benefit of an enemy or ally of enemy; and any person who knowingly pays, discharges, or satisfies any such debt, note, bill, or other obligation or chose in action shall, on conviction thereof, be deemed to violate section three hereof [section 3 of this Appendix]: *Provided,* That nothing in this Act [said sections] contained shall prevent the carrying out, completion, or performance of any contract, agreement, or obligation originally made with or entered into by an enemy or ally of enemy where, prior to the beginning of the war and not in contemplation thereof, the interest of such enemy or ally of enemy devolved by assignment or otherwise upon a person not an enemy or ally of enemy, and no enemy or ally of enemy will be benefited by such carrying out, completion, or performance otherwise than by release from obligation thereunder.

Nothing in this Act [said sections] shall be deemed to prevent payment of money belonging or owing to an enemy or ally of enemy to a person within the United States not an enemy or ally of enemy, for the benefit of such person or of any other person within the United States, not an enemy or ally of enemy, if the funds so paid shall have been received prior to the beginning of the war and such payments arise out of transactions entered into prior to the beginning of the war, and not in contemplation thereof: *Provided,* That such payment shall not be made without the license of the President, general or special, as provided in this Act [said sections].

Nothing in this Act [said sections] shall be deemed to authorize the prosecution of any suit or action at law or in equity in any court within the United States by an enemy or ally of enemy prior to the end of the war, except as provided in section ten hereof [section 10 of this Appendix]: *Provided, however,* That an enemy or ally of enemy licensed to do business under this Act [said sections] may prosecute and maintain any such suit or action so far as the same arises solely out of the business transacted within the United States under such license and so long as such license remains in full force and effect: *And provided further,* That an enemy or ally of enemy may defend by counsel any suit in equity or action at law which may be brought against him.

Receipt of notice from the President to the effect that he has reasonable ground to believe that any person is an enemy or ally of enemy shall be prima facie defense to any one receiving the same, in any suit or action at law or in equity brought or maintained, or to any right or set-off or recoupment asserted by, such person and based on failure to complete or perform since the beginning of the war any contract or other obligation. In any prosecution under section sixteen hereof [section 16 of this Appendix] proof of receipt of notice from the President to the effect that he has reasonable cause to believe that any person is an enemy or ally of enemy shall be prima facie evidence that the person receiving such notice has reasonable cause to believe such other person to be an enemy or ally of enemy within the meaning of section three hereof [section 3 of this Appendix].

(c) If the President shall so require any money or other property including (but not thereby limiting the generality of the above) patents, copyrights, applications therefor, and rights to apply for the same, trade marks, choses in action, and rights and claims of every character and description owing or belonging to or held for, by, on account of, or on behalf of, or for the benefit of, an enemy or ally of enemy not holding a license granted by the President hereunder, which the President after investigation shall determine is so owning or so belongs or is so held, shall be conveyed, transferred, assigned, delivered, or paid over to the Alien Property Custodian, or the same may be seized by the Alien Property Custodian; and all property thus acquired shall be held, administered and disposed of as elsewhere provided in this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix].

Any requirement made pursuant to this Act [said sections], or a duly certified copy thereof, may be filed, registered, or recorded in any office for the filing, registering, or recording of conveyances, transfers, or assignments of any such property or rights as may be covered by such requirement (including the proper office for filing, registering, or recording conveyances, transfers, or assignments of patents, copyrights, trade-marks, or any rights therein or any other rights); and if so filed, registered, or recorded shall impart the same notice and have the same force and effect as a duly executed conveyance, transfer, or assignment to the Alien Property Custodian so filed, registered, or recorded.

Whenever any such property shall consist of shares of stock or other beneficial interest in any corporation, association, or company or trust, it shall be the duty of the corporation, association, or company or trustee or trustees issuing such shares or any certificates or other instruments representing the same or any other beneficial interest to cancel upon its, his, or their books all shares of stock or other beneficial interest standing upon its, his, or their books in the name of any person or persons, or held for, on account of, or on behalf of, or for the benefit of any person or persons who shall have been determined by the President, after investigation, to be an enemy or ally of enemy, and which shall have been required to be conveyed, transferred, assigned, or delivered to the Alien Property Custodian or seized by him, and in lieu thereof to issue certificates or other instruments for such shares or other beneficial interest to the Alien Property Custodian or otherwise, as the Alien Property Custodian shall require.

The sole relief and remedy of any person having any claim to any money or other property heretofore or hereafter conveyed, transferred, assigned, delivered, or paid over to the Alien Property Custodian, or required so to be, or seized by him shall be that provided by the terms of this Act [said sections], and in the event of sale or other disposition of such property by the Alien Property Custodian, shall be limited to and enforced against the net proceeds received therefrom and held by the Alien Property Custodian or by the Treasurer of the United States.

(d) If not required to pay, convey, transfer, assign, or deliver under the provisions of subsection (c) of this section, any person not an enemy or ally of enemy who owes to, or holds for, or on account of, or on behalf of, or for the benefit of an enemy or of an ally of enemy not holding a license granted by the President hereunder, any money or other property, or to whom any obligation or form of liability to such enemy or ally of enemy is presented for payment, may, at his option, with the consent of the President, pay, convey, transfer, assign, or deliver to the alien property custodian said money or other property under such rules and regulations as the President shall prescribe.

(e) No person shall be held liable in any court for or in respect to anything done or omitted in pursuance of any order, rule, or regulation made by the President under the authority of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix].

Any payment, conveyance, transfer, assignment, or delivery of money or property made to the alien property custodian hereunder shall be a full acquittance and discharge for all purposes of the obligation of the person making the same to the extent of same. The alien property custodian and such other persons as the President may appoint shall have power to execute, acknowledge, and deliver any such instrument or instruments as may be necessary or proper to evidence upon the record or otherwise such acquittance and discharge, and shall, in case of payment to the alien property custodian of any debt or obligation owed to an enemy or ally of enemy, deliver up any notes, bonds, or other evidences of indebtedness or obligation, or any security therefor in which such enemy or ally of enemy had any right or interest that may have come into the possession of the alien property custodian, with like effect as if he or they, respectively, were duly appointed by the enemy or ally of enemy, creditor, or obligee. The President shall issue to every person so appointed a certificate of the appointment and authority of such person, and such certificate shall be received in evidence in all courts within the United States. Whenever any such certificate of authority shall be offered to any registrar, clerk, or other recording officer, Federal or otherwise, within the United States, such officer shall record the same in like manner as a power of attorney, and such record or a duly certified copy thereof shall be received in evidence in all courts of the United States or other courts within the United States.

(Oct. 6, 1917, ch. 106, § 7, 40 Stat. 416; Nov. 4, 1918, ch. 201, § 1, 40 Stat. 1020.)

## **AMENDMENTS**

1918--Subsec. (c). Act Nov. 4, 1918, amended subsec. (c) generally, inserting provisions on recording of property transfers, cancellation of enemy owned stock by corporations, and restriction of claims to relief provided by terms of the Act.

## **TRANSFER OF FUNCTIONS**

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to property or interest in Philippines, vested in Attorney General. See notes set out under section 6 of this Appendix.

## **WORLD WAR II ALIEN PROPERTY CUSTODIAN**

Reestablishment and termination of Office of Alien Property Custodian during World War II, see notes set out under section 6 of this Appendix.

## **CROSS REFERENCES**

Actions by and against Custodian, see sections 9, 10, 12 and 17 of this Appendix.

Claims to property transferred to Custodian, see section 9 of this Appendix.

Corporations, voting of stock and dividends after seizure, see section 12 of this Appendix.

Enforcement of seizures, see section 17 of this Appendix.

Nature of Custodian's right or title after seizure, see section 12 of this Appendix.

Recovery of property erroneously seized, see section 9 of this Appendix.

Waiver of demand and compromise settlement, see section 29 of this Appendix.

## **SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in title 28 section 2680.

### **§ 8. Contracts, mortgag**

## TITLE 50, APPENDIX 5

Subject: who is required everybody

### REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5 of this Appendix; title 28 section 2680.

### **§ 5. Suspension of provisions relating to ally of enemy; regulation of transactions in foreign exchange of gold or silver, property transfers, vested interests, enforcement and penalties**

(a) The President, if he shall find it compatible with the safety of the United States and with the successful prosecution of the war, may, by proclamation, suspend the provisions of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] so far as they apply to an ally of enemy, and he may revoke or renew such suspension from time to time; and the President may grant licenses, special or general, temporary or otherwise, and for such period of time and containing such provisions and conditions as he shall prescribe, to any person or class of persons to do business as provided in subsection (a) of section four hereof [section 4(a) of this Appendix], and to perform any act made unlawful without such license in section three hereof [section 3 of this Appendix], and to file and prosecute applications under subsection (b) of section ten hereof [section 10(b) of this Appendix]; and he may revoke or renew such licenses from time to time, if he shall be of opinion that such grant or revocation or renewal shall be compatible with the safety of the United States and with the successful prosecution of the war; and he may make such rules and regulations, not inconsistent with law, as may be necessary and proper to carry out the provisions of this Act [said sections]; and the President may exercise any power or authority conferred by this Act [said sections] through such officer or officers as he shall direct.

If the President shall have reasonable cause to believe that any act is about to be performed in violation of section three hereof [section 3 of this Appendix] he shall have authority to order the postponement of the performance of such act for a period not exceeding ninety days, pending investigation of the facts by him.

(b)(1) During the time of war, the President may, through any agency that he may designate, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise--

(A) investigate, regulate, or prohibit, any transactions in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency or securities, and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest,

by any person, or with respect to any property, subject to the jurisdiction of the United States; and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the terms, directed by the President, in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes; and the President shall, in the manner hereinabove provided, require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this subdivision either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this subdivision, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if necessary to the national security or defense, the seizure, of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person.

(2) Any payment, conveyance, transfer, assignment, or delivery of property or interest therein, made to or for the account of the United States, or as otherwise directed, pursuant to this subdivision or any rule, regulation, instruction, or direction issued hereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to anything done or omitted in

good faith in connection with the administration of, or in pursuance of and in reliance on, this subdivision, or any rule, regulation, instruction, or direction issued hereunder.

(3) As used in this subdivision the term "United States" means the United States and any place subject to the jurisdiction thereof: *Provided, however,* That the foregoing shall not be construed as a limitation upon the power of the President, which is hereby conferred, to prescribe from time to time, definitions, not inconsistent with the purposes of this subdivision, for any or all of the terms used in this subdivision. As used in this subdivision the term "person" means an individual, partnership, association, or corporation.

(4) The authority granted to the President by this section does not include the authority to regulate or prohibit, directly or indirectly, the importation from any country, or the exportation to any country, whether commercial or otherwise, regardless of format or medium of transmission, of any information or informational materials, including but not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds. The exports exempted from regulation or prohibition by this paragraph do not include those which are otherwise controlled for export under section 5 of the Export Administration Act of 1979 [section 2404 of this Appendix], or under section 6 of that Act [section 2405 of this Appendix] to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States, or with respect to which acts are prohibited by chapter 37 of title 18, United States Code.

(Oct. 6, 1917, ch. 106, § 5, 40 Stat. 415; Sept. 24, 1918, ch. 176, § 5, 40 Stat. 966; Mar. 9, 1933, ch. 1, § 2, 48 Stat. 1; May 7, 1940, ch. 185, § 1, 54 Stat. 179; Dec. 18, 1941, ch. 593, title III, § 301, 55 Stat. 839; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; Pub. L. 95-223, title I, § 101(a), 102, 103(b), Dec. 28, 1977, 91 Stat. 1625, 1626; Pub. L. 100-418, title II, § 2502(a)(1), Aug. 23, 1988, 102 Stat. 1371; Pub. L. 103-236, title V, § 525(b)(1), Apr. 30, 1994, 108 Stat. 474.)

#### Codification

Words ", including the Philippine Islands, and the several courts of first instance of the Commonwealth of the Philippine Islands shall have jurisdiction in all cases, civil or criminal, arising under this subdivision in the Philippine Islands and concurrent jurisdiction with the district courts of the United States of all cases, civil or criminal, arising upon the high seas" following "to the jurisdiction thereof:" in subsec. (b)(3) were omitted upon the authority of 1946 Proc. No. 2695, which granted the Philippine Islands independence, and which was issued pursuant to section 1394 of Title 22, Foreign Relations and Intercourse. Proc. No. 2695 is set out as a note under section 1394 of Title 22.

Subsec. (b) is also classified to section 95a of Title 12, Banks and Banking.

#### AMENDMENTS

1994--Subsec. (b)(4). Pub. L. 103-236 amended par. (4) generally. Prior to amendment, par. (4) read as follows: "The authority granted to the President in this subsection does not include the authority to regulate or prohibit, directly or indirectly, the importation from any country, or the exportation to any country, whether commercial or otherwise, of publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, or other informational materials, which are not otherwise controlled for export under section 5 of the Export Administration Act of 1979 or with respect to which no acts are prohibited by chapter 37 of title 18, United States Code."

1988--Subsec. (b)(4). Pub. L. 100-418 added par. (4).

1977--Subsec. (b)(1). Pub. L. 95-223, § 101(a), 102, substituted "During the time of war, the President may, through any agency that he may designate, and under such rules and regulations" for "During the time of war or during any other period of national emergency declared by the President, the President may, through any agency, that he may designate, or otherwise, and under such rules and regulations" in provisions preceding subpar. (A), and, in provisions following subpar. (B), struck out "; and the President may, in the manner hereinabove provided, take other and further measures not inconsistent herewith for the enforcement of this subdivision" after "control of such person".

Subsec. (b)(3). Pub. L. 95-22, § 103(b), struck out provisions that whoever willfully violated any of the provisions of this subdivision or of any license, order, rule, or regulation issued thereunder, could be fined not more than \$10,000, or, if a natural person, could be imprisoned for not more than ten years, or both; and that any officer, director, or agent of any corporation who knowingly participated in that violation could be punished by a like fine, imprisonment, or both.

1941--Subsec. (b). Act Dec. 18, 1941, considerably broadened the powers of the President to take, administer, control, use and liquidate foreign-owned property and added a flexibility of control which enabled the President and the agencies designated by him to cope with the problems surrounding alien property, its ownership or control, on the basis of the particular facts in each case.

1940--Subsec. (b). Act May 7, 1940, included dealings in evidences of indebtedness or ownership of property in which foreign states, nationals or political subdivisions thereof have an interest.

1933--Subsec. (b). Act Mar. 9, 1933, among other things, extended President's power to any time of war national emergency, permitted regulations to be issued by any agency designated by President, provided for furnishing under oath of complete information relative to transactions under the subsection, and placed sanctions on violations to the extent of a \$10,000 fine or ten years imprisonment.

1918--Subsec. (b). Act Sept. 24, 1918, inserted provisions relating to hoarding or melting of gold or silver coin or bullion or currency and to regulation of transactions in bonds or certificates of indebtedness.

## **DELEGATION OF FUNCTIONS**

Delegation of President's powers under subsec. (b) of this section to Secretary of the Treasury and Alien Property Custodian; and transfer of Alien Property Custodian's powers to Attorney General, see Ex. Ord. Nos. 9095 and 9788, set out under section 6 of this Appendix.

Powers conferred upon President by subsec. (b) of this section delegated to Secretary of the Treasury by Memorandum of President dated Feb. 12, 1942, 7 F.R. 1409.

## **LIMITATION ON EXERCISE OF EMERGENCY AUTHORITIES**

Section 525(b)(2) of Pub. L. 103-236 provided that: "The authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act [subsec. (b) of this section], which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act [Apr. 30, 1994], do not include the authority to regulate or prohibit, directly or indirectly, any activity which, under section 5(b)(4) of the Trading With the Enemy Act, as amended by paragraph (1) of this subsection, may not be regulated or prohibited."

Section 2502(a)(2) of Pub. L. 100-418 provided that: "The authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act [subsec. (b) of this section], which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act [Aug. 23, 1988], do not include the authority to regulate or prohibit, directly or indirectly, any activity which, under section 5(b)(4) of the Trading With the Enemy Act, as added by paragraph (1) of this subsection, may not be regulated or prohibited."

## **EXTENSION AND TERMINATION OF NATIONAL EMERGENCY POWERS UNDER THE TRADING WITH THE ENEMY ACT**

Section 101(b), (c) of Pub. L. 95-223 provided that:

"(b) Notwithstanding the amendment made by subsection (a) [amending subsec. (b)(1) of this section], the authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act [subsec. (b) of this section], which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, may continue to be exercised with respect to such country, except that, unless extended, the exercise of such authorities shall terminate (subject to the savings provisions of the second sentence of section 101(a) of the National Emergencies Act [section 1601(a) of this title]) at the end of the two-year period beginning on the date of enactment of the National Emergencies Act [Sept. 14, 1976]. The President may extend the exercise of such authorities for one-year periods upon a determination for each such extension that the exercise of such authorities with respect to such country for another year is in the national interest of the United States.

"(c) The termination and extension provisions of subsection (b) of this section supersede the provisions of section 101(a) [section 1601(a) of this title] and of title II [section 1621 et seq. of this title] of the National Emergencies Act to the extent that the provisions of subsection (b) of this section are inconsistent with those provisions."

## **EXTENSION OF THE EXERCISE OF CERTAIN AUTHORITIES UNDER THE TRADING WITH THE ENEMY ACT**

Determination of President of the United States, No. 99-36, Sept. 10, 1999, 64 F.R. 51885, provided:

Memorandum for the Secretary of State [and] the Secretary of the Treasury

Under section 101(b) of Public Law 95-223 (91 Stat. 1625; 50 U.S.C. App. 5(b) note), and a previous determination made by me on September 11, 1998 (63 Fed. Reg. 50455), the exercise of certain authorities under the Trading With the Enemy Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] is scheduled to terminate on September 14, 1999.

I hereby determine that the continuation for 1 year of the exercise of those authorities with respect to the applicable countries is in the national interest of the United States.

Therefore, pursuant to the authority vested in me by section 101(b) of Public Law 95-223, I continue for 1 year, until September 14, 2000, the exercise of those authorities with respect to countries affected by:

- (1) the Foreign Assets Control Regulations, 31 CFR part 500;
- (2) the Transaction Control Regulations, 31 CFR part 505; and
- (3) the Cuban Assets Control Regulations, 31 CFR part 515.

The Secretary of the Treasury is authorized and directed to publish this determination in the Federal Register.

William J. Clinton.

Prior extensions were contained in the following:

Determination of President of the United States, No. 98-35, Sept. 11, 1998, 63 F.R. 50455.

Determination of President of the United States, No. 97-32, Sept. 12, 1997, 62 F.R. 48729.

Determination of President of the United States, No. 96-43, Aug. 27, 1996, 61 F.R. 46529.

Determination of President of the United States, No. 95-41, Sept. 8, 1995, 60 F.R. 47659.

Determination of President of the United States, No. 94-46, Sept. 8, 1994, 59 F.R. 47229.

Determination of President of the United States, No. 93-38, Sept. 13, 1993, 58 F.R. 51209.

Determination of President of the United States, No. 92-45, Aug. 28, 1992, 57 F.R. 43125.

Determination of President of the United States, No. 91-52, Sept. 13, 1991, 56 F.R. 48415.

Determination of President of the United States, No. 90-38, Sept. 5, 1990, 55 F.R. 37309.

Determination of President of the United States, No. 89-25, Aug. 28, 1989, 54 F.R. 37089.

Determination of President of the United States, No. 88-22, Sept. 8, 1988, 53 F.R. 35289.

Memorandum of President of the United States, Aug. 27, 1987, 51 F.R. 33397.

Memorandum of President of the United States, Aug. 20, 1986, 51 F.R. 30201.

Memorandum of President of the United States, Sept. 5, 1985, 50 F.R. 36563.

Memorandum of President of the United States, Sept. 11, 1984, 49 F.R. 35927.

Memorandum of President of the United States, Sept. 7, 1983, 48 F.R. 40695.

Memorandum of President of the United States, Sept. 8, 1982, 47 F.R. 39797.

Memorandum of President of the United States, Sept. 10, 1981, 46 F.R. 45321.

Memorandum of President of the United States, Sept. 8, 1980, 45 F.R. 59549.

Memorandum of President of the United States, Sept. 12, 1979, 44 F.R. 53153.

Memorandum of President of the United States, Sept. 8, 1978, 43 F.R. 40449.

#### **NON-APPLICABILITY OF NATIONAL EMERGENCIES ACT**

The provisions of the National Emergencies Act [see Short Title note set out under section 1601 of Title 50, War and National Defense] shall not apply to the powers and authorities conferred by this section and actions taken hereunder, see section 1651(a)(1) of Title 50.

#### **WORLD WAR II ALIEN PROPERTY CUSTODIAN**

Reestablishment and termination of Office of Alien Property Custodian during World War II, see notes set out under section 6 of this Appendix.

#### **APPROVAL OF REGULATIONS**

Act Mar. 9, 1933, ch. 1, title I, § 1, 48 Stat. 1, provided that: "The actions, regulations, rules, licenses, orders and proclamations heretofore or hereafter taken, promulgated, made, or issued by the President of the United States or the Secretary of the Treasury since March 4, 1933, pursuant to the authority conferred by subdivision (b) of section 5 of the act of October 6, 1917, as amended [section 5(b) of this Appendix], are hereby approved and confirmed."

#### **EXECUTIVE ORDERS**

Ex. Ord. No. 6260, as amended, respecting hoarding, export, and earmarking of gold coin, bullion, or currency and transactions in foreign exchange; Ex. Ord. No. 6560, as amended, respecting transactions in foreign exchange, transfers of credit, and export of coin and currency; Ex. Ord. No. 8389, as amended, regulating transactions in foreign exchange and foreign-owned property and providing for the reporting of all foreign-owned property; Ex. Ord. No. 9747, respecting continuance of functions of Alien Property Custodian and Treasury Department in Philippines; Ex. Ord. No. 9760, respecting diplomatic property of Germany and Japan; and Ex. Ord. No. 10348, continuing in force orders and regulations relating to blocked property, see notes set out under section 95a of Title 12, Banks and Banking, and section 6 of this Appendix.

#### **CROSS REFERENCES**

Jurisdiction of courts of Philippine Islands continued, see section 1382 of Title 22, Foreign Relations and Intercourse.

Right to amend and separability of provisions of act Mar. 9, 1933, see section 212 of Title 12, Banks and Banking.

#### **SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in title 12 sections 212, 3409, 3413; title 22 sections 6004, 6005, 6023, 6082; title 28 sections

## TITLE 5, REPRESENTATION AND DEFINITIONS

Subject: re: representation re contract/god bless the courts and all are adversaries

### SUBCHAPTER I.—GENERAL PROVISIONS

#### **§ 500. Administrative practice; general provisions.**

- (a) For the purpose of this section--
  - (1) "agency" has the meaning given it by [section 551](#) of this title; and
  - (2) "State" means a State, a territory or possession of the United States including a Commonwealth, or the District of Columbia.
- (b) An individual who is a member in good standing of the bar of the highest court of a State may represent a person before an agency on filing with the agency a written declaration that he is currently qualified as provided by this subsection and is authorized to represent the particular person in whose behalf he acts.
- (c) An individual who is duly qualified to practice as a certified public accountant in a State may represent a person before the Internal Revenue Service of the Treasury Department on filing with that agency a written declaration that he is currently qualified as provided by this subsection and is authorized to represent the particular person in whose behalf he acts.
- {{8-31-81 p.8022}}*
  - (d) This section does not--
    - (1) grant or deny to an individual who is not qualified as provided by subsection (b) or (c) of this section the right to appear for or represent a person before an agency or in an agency proceeding;
    - (2) authorize or limit the discipline, including disbarment, of individuals who appear in a representative capacity before an agency;
    - (3) authorize an individual who is a former employee of an agency to represent a person before an agency when the representation is prohibited by statute or regulation; or
    - (4) prevent an agency from requiring a power of attorney as a condition to the settlement of a controversy involving the payment of money.
    - (e) Subsections (b)-(d) of this section do not apply to practice before the Patent Office with respect to patent matters that continue to be covered by chapter 3 (sections 31-33) of title 35.
    - (f) When a participant in a matter before an agency is represented by an individual qualified under subsection (b) or (c) of this section, a notice or other written communication required or permitted to be given the participant in the matter shall be given to the representative in addition to any other service specifically required by statute. When a participant is represented by more than one such qualified representative, service on any one of the representatives is sufficient.

[Codified to 5 U.S.C. 500]

[Source: Section 500 of the Act of September 6, 1966 (Pub. L. No. 89-554), as added by section 1(1)(A) of the Act of September 11, 1967 (Pub. L. No. 90-83; 81 Stat 195), effective September 11, 1967]

Identity Theft Forms

Subject: RE: IDENTITY THIEFT

Search:

Facts for Consumers

[PDF  
Version](#)

Take Charge: Fighting Back Against Identity Theft  
(formerly: "ID Theft: When Bad Things Happen to Your Good Name")

To Print: Use File/Page Setup in your browser to set page margins to zero or your printer's minimum margin settings.

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## INTRODUCTION

In the course of a busy day, you may write a check at the grocery store, charge tickets to a ball game, rent a car, mail your tax returns, change service providers for your cell phone, or apply for a credit card. Chances are you don't give these everyday transactions a second thought. But an identity thief does.

Identity theft is a serious crime. People whose identities have been stolen can spend months or years and thousands of dollars cleaning up the mess the thieves have made of a good name and credit record. In the meantime, victims of identity theft may lose job opportunities, be refused loans for education, housing, or cars, and even get arrested for crimes they didn't commit. Humiliation, anger, and frustration are among the feelings victims experience as they navigate the process of rescuing their identity.

Working with other government agencies and organizations, the Federal Trade Commission (FTC) has produced this booklet to help you remedy the effects of an identity theft. It describes what steps to take, your legal rights, how to handle specific problems you may encounter on the way to clearing your name, and what to watch for in the future.

## HOW IDENTITY THEFT OCCURS

*I first was notified that someone had used my Social Security number for their taxes in February 2004. I also found out that this person opened a checking account, cable and utility accounts, and a cell phone account in my name. I'm still trying to clear up everything and just received my income tax refund after waiting four to five months. Trying to work and get all this cleared up is very stressful.*

*From a consumer's complaint to the FTC, July 9, 2004*

Despite your best efforts to manage the flow of your personal information or to keep it to yourself, skilled identity thieves may use a variety of methods to gain access to your data.

### **How identity thieves get your personal information:**

- They get information from businesses or other institutions by:
  - stealing records or information while they're on the job
  - bribing an employee who has access to these records
  - hacking these records
  - conning information out of employees
- They may steal your mail, including bank and credit card statements, credit card offers, new checks, and tax information.
- They may rummage through your trash, the trash of businesses, or public trash dumps in a practice known as "dumpster diving."
- They may get your credit reports by abusing their employer's authorized access to them, or by posing as a landlord, employer, or someone else who may have a legal right to access your report.
- They may steal your credit or debit card numbers by capturing the information in a data storage device in a practice known as "skimming." They may swipe your card for an actual purchase, or attach the device to an ATM machine where you may enter or swipe your card.

- They may steal your wallet or purse.
- They may complete a "change of address form" to divert your mail to another location.
- They may steal personal information they find in your home.
- They may steal personal information from you through email or phone by posing as legitimate companies and claiming that you have a problem with your account. This practice is known as "phishing" online, or pretexting by phone.

### **How identity thieves use your personal information:**

- They may call your credit card issuer to change the billing address on your credit card account. The imposter then runs up charges on your account. Because your bills are being sent to a different address, it may be some time before you realize there's a problem.
- They may open new credit card accounts in your name. When they use the credit cards and don't pay the bills, the delinquent accounts are reported on your credit report.
- They may establish phone or wireless service in your name.
- They may open a bank account in your name and write bad checks on that account.
- They may counterfeit checks or credit or debit cards, or authorize electronic transfers in your name, and drain your bank account.
- They may file for bankruptcy under your name to avoid paying debts they've incurred under your name, or to avoid eviction.
- They may buy a car by taking out an auto loan in your name.
- They may get identification such as a driver's license issued with their picture, in your name.
- They may get a job or file fraudulent tax returns in your name.
- They may give your name to the police during an arrest. If they don't show up for their court date, a warrant for arrest is issued in your name.

### If Your Personal Information Has Been Lost or Stolen

If you've lost personal information or identification, or if it has been stolen from you, taking certain steps quickly can minimize the potential for identity theft.

**Financial accounts:** Close accounts, like credit cards and bank accounts, immediately. When you open new accounts, place passwords on them. Avoid using your mother's maiden name, your birth date, the last four digits of your Social Security number (SSN) or your phone number, or a series of consecutive numbers.

**Social Security number:** Call the toll-free fraud number of any of the three nationwide consumer reporting companies and place an **initial fraud alert** on your credit reports. An alert can help stop someone from opening new credit accounts in your name. See [consumer reporting company contact information](#). For more information about fraud alerts, see the [Fraud Alerts](#) box.

**Driver's license/other government-issued identification:** Contact the agency that issued the license or other identification document. Follow its procedures to cancel the document and to get a replacement. Ask the agency to flag your file so that no one else can get a license or any other identification document from them in your name.

Once you've taken these precautions, watch for signs that your information is being misused. See [STAYING ALERT](#).

If your information has been misused, file a report about the theft with the police, and file a complaint with the Federal Trade Commission, as well. If another crime was committed for

example, if your purse or wallet was stolen or your house or car was broken into report it to the police immediately.

## IDENTITY THEFT VICTIMS: IMMEDIATE STEPS

If you are a victim of identity theft, take the following four steps as soon as possible, and keep a record with the details of your conversations and copies of all correspondence.

### 1. Place a fraud alert on your credit reports, and review your credit reports.

Fraud alerts can help prevent an identity thief from opening any more accounts in your name. Contact the toll-free fraud number of any of the three consumer reporting companies below to place a fraud alert on your credit report. You only need to contact one of the three companies to place an alert. The company you call is required to contact the other two, which will place an alert on their versions of your report, too.

**Equifax:** 1-800-525-6285; [www.equifax.com](http://www.equifax.com); P.O. Box 740241, Atlanta, GA 30374- 0241

**Experian:** 1-888-EXPERIAN (397-3742); [www.experian.com](http://www.experian.com); P.O. Box 9532, Allen, TX 75013

**TransUnion:** 1-800-680-7289; [www.transunion.com](http://www.transunion.com); Fraud Victim Assistance Division, P.O. Box 6790, Fullerton, CA 92834-6790

Once you place the fraud alert in your file, you're entitled to order free copies of your credit reports, and, if you ask, only the last four digits of your SSN will appear on your credit reports. Once you get your credit reports, review them carefully. Look for inquiries from companies you haven't contacted, accounts you didn't open, and debts on your accounts that you can't explain. Check that information, like your SSN, address(es), name or initials, and employers are correct. If you find fraudulent or inaccurate information, get it removed. See [Correcting Credit Reports](#) to learn how. Continue to check your credit reports periodically, especially for the first year after you discover the identity theft, to make sure no new fraudulent activity has occurred.

### Fraud Alerts

There are two types of fraud alerts: an **initial** alert, and an **extended** alert.

- **An initial alert stays on your credit report for at least 90 days.** You may ask that an initial fraud alert be placed on your credit report if you suspect you have been, or are about to be, a victim of identity theft. An initial alert is appropriate if your wallet has been stolen or if you've been taken in by a "phishing" scam. When you place an initial fraud alert on your credit report, you're entitled to one free credit report from each of the three nationwide consumer reporting companies.
- **An extended alert stays on your credit report for seven years.** You can have an extended alert placed on your credit report if you've been a victim of identity theft and you provide the consumer reporting company with an "[identity theft report](#)." When you place an extended alert on your credit report, you're entitled to two free credit reports within twelve months from each of the three

nationwide consumer reporting companies. In addition, the consumer reporting companies will remove your name from marketing lists for pre-screened credit offers for five years unless you ask them to put your name back on the list before then.

To place either of these alerts on your credit report, or to have them removed, you will be required to provide appropriate proof of your identity: that may include your SSN, name, address and other personal information requested by the consumer reporting company.

When a business sees the alert on your credit report, they must verify your identity before issuing you credit. As part of this verification process, the business may try to contact you directly. This may cause some delays if you're trying to obtain credit. To compensate for possible delays, you may wish to include a cell phone number, where you can be reached easily, in your alert. Remember to keep all contact information in your alert current.

## 2. Close the accounts that you know, or believe, have been tampered with or opened fraudulently.

Call and speak with someone in the security or fraud department of each company. Follow up in writing, and include copies (NOT originals) of supporting documents. *It's important to notify credit card companies and banks in writing.* Send your letters by certified mail, return receipt requested, so you can document what the company received and when. Keep a file of your correspondence and enclosures.

When you open new accounts, use new Personal Identification Numbers (PINs) and passwords. Avoid using easily available information like your mother's maiden name, your birth date, the last four digits of your SSN or your phone number, or a series of consecutive numbers.

If the identity thief has made charges or debits on your accounts, or on fraudulently opened accounts, ask the company for the forms to dispute those transactions:

- For charges and debits on existing accounts, ask the representative to send you the company's fraud dispute forms. If the company doesn't have special forms, use the [sample letter](#) to dispute the fraudulent charges or debits. In either case, write to the company at the address given for "billing inquiries," NOT the address for sending your payments.
- For new unauthorized accounts, ask if the company accepts the [ID Theft Affidavit](#). If not, ask the representative to send you the company's fraud dispute forms. If the company already has reported these accounts or debts on your credit report, dispute this fraudulent information. See [Correcting Credit Reports](#) to learn how.

Once you have resolved your identity theft dispute with the company, ask for a letter stating that the company has closed the disputed accounts and has discharged the fraudulent debts. This letter is your best proof if errors relating to this account reappear on your credit report or you are contacted again about the fraudulent debt.

### Proving You're a Victim

Applications or other transaction records related to the theft of your identity may help you prove that you are a victim. For example, you may be able to show that the signature on an application is not yours. These documents also may contain information about the identity thief that is valuable to law enforcement. By law, companies must give you a copy of the application or other business transaction records relating to your identity theft if you submit your request in writing. Be sure to ask the company representative where you should mail your request. Companies must provide these records at no charge to you within 30 days of receipt of your request and your supporting documents. You also may give permission to any law enforcement agency to get these records, or ask in your written request that a copy of these records be sent to a particular law enforcement officer.

The company can ask you for:

- proof of your identity. This may be a photocopy of a government-issued ID card, the same type of information the identity thief used to open or access the account, or the type of information the company usually requests from applicants or customers, and
- a police report and a completed affidavit, which may be the [Identity Theft Affidavit](#) or the company's own affidavit.

### 3. File a report with your local police or the police in the community where the identity theft took place.

Then, get a copy of the police report or at the very least, the number of the report. It can help you deal with creditors who need proof of the crime. If the police are reluctant to take your report, ask to file a "Miscellaneous Incidents" report, or try another jurisdiction, like your state police. You also can check with your state Attorney General's office to find out if state law requires the police to take reports for identity theft. Check the Blue Pages of your telephone directory for the phone number or check [www.naag.org](http://www.naag.org) for a list of state Attorneys General.

### 4. File a complaint with the Federal Trade Commission.

By sharing your identity theft complaint with the FTC, you will provide important information that can help law enforcement officials across the nation track down identity thieves and stop them. The FTC can refer victims' complaints to other government agencies and companies for further action, as well as investigate companies for violations of laws the agency enforces.

You can file a complaint online at [www.consumer.gov/idtheft](http://www.consumer.gov/idtheft). If you don't have Internet access, call the FTC's Identity Theft Hotline, toll-free: 1-877-IDTHEFT (438-4338); TTY: 1-866-653- 4261; or write: Identity Theft Clearinghouse, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

Be sure to call the Hotline to update your complaint if you have any additional information or problems.

## The Identity Theft Report

An identity theft report may have two parts:

**Part One** is a copy of a report filed with a local, state, or federal law enforcement agency, like your local police department, your State Attorney General, the FBI, the U.S. Secret Service, the FTC, and the U.S. Postal Inspection Service. There is no federal law requiring a federal agency to take a report about identity theft; however, some state laws require local police departments to take reports. When you file a report, provide as much information as you can about the crime, including anything you know about the dates of the identity theft, the fraudulent accounts opened and the alleged identity thief.

**Note:** Knowingly submitting false information could subject you to criminal prosecution for perjury.

**Part Two** of an identity theft report depends on the policies of the consumer reporting company and the information provider (the business that sent the information to the consumer reporting company). That is, they may ask you to provide information or documentation in addition to that included in the law enforcement report which is reasonably intended to verify your identity theft. They must make their request within 15 days of receiving your law enforcement report, or, if you already obtained an extended fraud alert on your credit report, the date you submit your request to the credit reporting company for information blocking. The consumer reporting company and information provider then have 15 more days to work with you to make sure your identity theft report contains everything they need. They are entitled to take five days to review any information you give them. For example, if you give them information 11 days after they request it, they do not have to make a final decision until 16 days after they asked you for that information. If you give them any information after the 15-day deadline, they can reject your identity theft report as incomplete; you will have to resubmit your identity theft report with the correct information.

You may find that most federal and state agencies, and some local police departments, offer only "automated" reports a report that does not require a face-to-face meeting with a law enforcement officer. Automated reports may be submitted online, or by telephone or mail. If you have a choice, do not use an automated report. The reason? It's more difficult for the consumer reporting company or information provider to verify the information. Unless you are asking a consumer reporting company to place an extended fraud alert on your credit report, you probably will have to provide additional information or documentation when you use an automated report.

### Tips For Organizing Your Case

Accurate and complete records will help you to resolve your identity theft case more quickly.

- Have a plan when you contact a company. Don't assume that the person you talk to will give you all the information or help you need. Prepare a list of questions to ask the representative, as well as information about your identity theft. Don't end the call until you're sure you understand everything you've been told. If you need more help, ask to speak to a supervisor.
- Write down the name of everyone you talk to, what he or she tells you, and the date the conversation occurred. Use [Chart Your Course of Action](#) to help you.

- Follow up in writing with all contacts you've made on the phone or in person. Use certified mail, return receipt requested, so you can document what the company or organization received and when.
- Keep copies of all correspondence or forms you send.
- Keep the originals of supporting documents, like police reports and letters to and from creditors; send copies only.
- Set up a filing system for easy access to your paperwork.
- Keep old files even if you believe your case is closed. Once resolved, most cases stay resolved, but problems can crop up.

#### Chart Your Course of Action [[PDF version of form](#)]

Use this form to record the steps you've taken to report the fraudulent use of your identity. Keep this list in a safe place for reference.

#### Nationwide Consumer Reporting Companies - Report Fraud

<b>Consumer Reporting Company</b>	<b>Phone Number</b>	<b>Date Contacted</b>	<b>Contact Person</b>	<b>Comments</b>
Equifax	1-800-525-6285			
Experian	1-888-EXPERIAN (397-3742)			
TransUnion	1-800-680-7289			

#### Banks, Credit Card Issuers and Other Creditors (Contact each creditor promptly to protect your legal rights.)

<b>Creditor</b>	<b>Address and Phone Number</b>	<b>Date Contacted</b>	<b>Contact Person</b>	<b>Comments</b>

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## Law Enforcement Authorities - Report Identity Theft

Agency/Department	Phone Number	Date Contacted	Contact Person	Report Number	Comments

## RESOLVING SPECIFIC PROBLEMS

*I received a copy of my credit report and saw about a half a dozen items that I didn't know anything about. It's affected my credit rating so badly that I couldn't get a student loan. I didn't realize there was a problem until my student loan application was denied.*

*From a consumer's complaint to the FTC, May 25, 2004*

While dealing with problems resulting from identity theft can be time-consuming and frustrating, most victims can resolve their cases by being assertive, organized, and knowledgeable about their legal rights. Some laws require you to notify companies within specific time periods. Don't delay in contacting any companies to deal with these problems, and ask for supervisors if you need more help than you're getting.

### *Bank Accounts and Fraudulent Withdrawals*

Different laws determine your legal remedies based on the type of bank fraud you have suffered. For example, state laws protect you against fraud committed by a thief using paper documents, like stolen or counterfeit checks. But if the thief used an electronic fund transfer, federal law applies. Many transactions may seem to be processed electronically but are still considered "paper" transactions. If you're not sure what type of transaction the thief used to commit the fraud, ask the financial institution that processed the transaction.

### *Fraudulent Electronic Withdrawals*

The Electronic Fund Transfer Act provides consumer protections for transactions involving an ATM or debit card, or another electronic way to debit or credit an account. It also limits your liability for unauthorized electronic fund transfers.

You have 60 days from the date your bank account statement is sent to you to report in writing any money withdrawn from your account without your permission. This includes instances when your ATM or debit card is "skimmed" that is, when a thief captures your account number and PIN without your card having been lost or stolen.

If your ATM or debit card is lost or stolen, report it immediately because the amount you can be held responsible for depends on **how quickly** you report the loss.

- If you report the loss or theft within two business days of discovery, your losses are limited to \$50.
- If you report the loss or theft after two business days, but within 60 days after the unauthorized electronic fund transfer appears on your statement, you could lose up to \$500 of what the thief withdraws.
- If you wait more than 60 days to report the loss or theft, you could lose all the money that was taken from your account after the end of the 60 days.

**Note:** VISA and MasterCard voluntarily have agreed to limit consumers' liability for unauthorized use of their debit cards in most instances to \$50 per card, no matter how much time has elapsed since the discovery of the loss or theft of the card.

The best way to protect yourself in the event of an error or fraudulent transaction is to call the financial institution and follow up in writing by certified letter, return receipt requested so you can prove when the institution received your letter. Keep a copy of the letter you send for your records.

After receiving your notification about an error on your statement, the institution generally has 10 business days to investigate. The institution must tell you the results of its investigation within three business days after completing it and must correct an error within one business day after determining that it occurred. If the institution needs more time, it may take up to 45 days to complete the investigation but only if the money in dispute is returned to your account and you are notified promptly of the credit. At the end of the investigation, if no error has been found, the institution may take the money back if it sends you a written explanation. For more information, see [Electronic Banking](#) and [Credit, ATM and Debit Cards: What To Do If They're Lost or Stolen](#).

#### *Fraudulent Checks and Other "Paper" Transactions*

In general, if an identity thief steals your checks or counterfeits checks from your existing bank account, stop payment, close the account, and ask your bank to notify Chex Systems, Inc. or the check verification service with which it does business. That way, retailers can be notified not to accept these checks. While no federal law limits your losses if someone uses your checks with a forged signature, or uses another type of "paper" transaction such as a demand draft, state laws may protect you. Most states hold the bank responsible for losses from such transactions. At the same time, most states require you to take reasonable care of your account. For example, you may be held responsible for the forgery if you fail to notify the bank in a timely manner that a check was lost or stolen. Contact your state banking or consumer protection agency for more information.

You can contact major check verification companies directly for the following services:

- To request that they notify retailers who use their databases not to accept your checks, call:
  - TeleCheck at 1-800-710-9898 or 1-800-927-0188
  - Certegy, Inc. (previously Equifax Check Systems) at 1-800-437-5120
- To find out if the identity thief has been passing bad checks in your name, call:
  - SCAN: 1-800-262-7771

If your checks are rejected by a merchant, it may be because an identity thief is using the Magnetic

Information Character Recognition (MICR) code (the numbers at the bottom of checks), your driver's license number, or another identification number. The merchant who rejects your check should give you its check verification company contact information so you can find out what information the thief is using. If you find that the thief is using your MICR code, ask your bank to close your checking account, and open a new one. If you discover that the thief is using your driver's license number or some other identification number, work with your DMV or other identification issuing agency to get new identification with new numbers. Once you have taken the appropriate steps, your checks should be accepted.

**Note:**

- The check verification company may or may not remove the information about the MICR code or the driver's license/identification number from its database because this information may help prevent the thief from continuing to commit fraud.
- If the checks are being passed on a new account, contact the bank to close the account. Also contact Chex Systems, Inc., to review your consumer report to make sure that no other bank accounts have been opened in your name.
- Dispute any bad checks passed in your name with merchants so they don't start any collections actions against you.

*Fraudulent New Accounts*

If you have trouble opening a new checking account, it may be because an identity thief has been opening accounts in your name. Chex Systems, Inc., produces consumer reports specifically about checking accounts, and as a consumer reporting company, is subject to the Fair Credit Reporting Act. You can request a free copy of your consumer report by contacting Chex Systems, Inc. If you find inaccurate information on your consumer report, follow the procedures under [Correcting Credit Reports](#) to dispute it. Contact each of the banks where account inquiries were made, too. This will help ensure that any fraudulently opened accounts are closed.

Chex Systems, Inc.: 1-800-428-9623; [www.chexhelp.com](http://www.chexhelp.com)

Fax: 602-659-2197

Chex Systems, Inc.

Attn: Consumer Relations

7805 Hudson Road, Suite 100

Woodbury, MN 55125

*Where to Find Help*

If you have trouble getting a financial institution to help you resolve your banking-related identity theft problems, including problems with bank-issued credit cards, contact the agency that oversees your bank (see list below). If you're not sure which of these agencies is the right one, call your bank or visit the National Information Center of the Federal Reserve System at [www.ffiec.gov/nic/](http://www.ffiec.gov/nic/) and click on "Institution Search."

**Federal Deposit Insurance Corporation (FDIC)** [www.fdic.gov](http://www.fdic.gov)

The FDIC supervises state-chartered banks that are not members of the Federal Reserve System, and insures deposits at banks and savings and loans.

Call the FDIC Consumer Call Center toll-free: 1-800-934-3342; or write: Federal Deposit Insurance Corporation, Division of Compliance and Consumer Affairs, 550 17th Street, NW, Washington, DC 20429.

FDIC publications:

- [Classic Cons... And How to Counter Them](#)
- [A Crook Has Drained Your Account. Who Pays?](#)
- [Your Wallet: A Loser's Manual](#)

### **Federal Reserve System (Fed) [www.federalreserve.gov](http://www.federalreserve.gov)**

The Fed supervises state-chartered banks that are members of the Federal Reserve System.

Call: 202-452-3693; or write: Division of Consumer and Community Affairs, Mail Stop 801, Federal Reserve Board, Washington, DC 20551; or contact the Federal Reserve Bank in your area. The Reserve Banks are located in Boston, New York, Philadelphia, Cleveland, Richmond, Atlanta, Chicago, St. Louis, Minneapolis, Kansas City, Dallas, and San Francisco.

### **National Credit Union Administration (NCUA) [www.ncua.gov](http://www.ncua.gov)**

The NCUA charters and supervises federal credit unions and insures deposits at federal credit unions and many state credit unions.

Call: 703-518-6360; or write: Compliance Officer, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314.

### **Office of the Comptroller of the Currency (OCC) [www.occ.treas.gov](http://www.occ.treas.gov)**

The OCC charters and supervises national banks. If the word "national" appears in the name of a bank, or the initials "N.A." follow its name, the OCC oversees its operations.

Call toll-free: 1-800-613-6743 (business days 9:00 a.m. to 4:00 p.m. CST); fax: 713-336-4301; or write: Customer Assistance Group, 1301 McKinney Street, Suite 3710, Houston, TX 77010.

OCC publications:

- [Check Fraud: A Guide to Avoiding Losses](#)
- [How to Avoid Becoming a Victim of Identity Theft](#)
- [Identity Theft and Pretext Calling Advisory Letter 2001-4](#)

### **Office of Thrift Supervision (OTS) [www.ots.treas.gov](http://www.ots.treas.gov)**

The OTS is the primary regulator of all federal, and many state-chartered, thrift institutions, including savings banks and savings and loan institutions.

Call: 202-906-6000; or write: Office of Thrift Supervision, 1700 G Street, NW, Washington, DC

20552.

## Bankruptcy Fraud

### **U. S. Trustee (UST) [www.usdoj.gov/ust](http://www.usdoj.gov/ust)**

If you believe someone has filed for bankruptcy in your name, write to the U.S. Trustee in the region where the bankruptcy was filed. A list of the U.S. Trustee Programs' Regional Offices is available on the UST website, or check the Blue Pages of your phone book under U.S. Government Bankruptcy Administration.

In your letter, describe the situation and provide proof of your identity. The U.S. Trustee will make a criminal referral to law enforcement authorities if you provide appropriate documentation to substantiate your claim. You also may want to file a complaint with the U.S. Attorney and/or the FBI in the city where the bankruptcy was filed. The U.S. Trustee does not provide legal representation, legal advice, or referrals to lawyers. That means you may need to hire an attorney to help convince the bankruptcy court that the filing is fraudulent. The U.S. Trustee does not provide consumers with copies of court documents. You can get them from the bankruptcy clerk's office for a fee.

## Correcting Fraudulent Information in Credit Reports

The Fair Credit Reporting Act (FCRA) establishes procedures for correcting fraudulent information on your credit report and requires that your report be made available only for certain legitimate business needs.

Under the FCRA, both the consumer reporting company and the information provider (the business that sent the information to the consumer reporting company), such as a bank or credit card company, are responsible for correcting fraudulent information in your report. To protect your rights under the law, contact both the consumer reporting company and the information provider.

### *Consumer Reporting Company Obligations*

Consumer reporting companies will block fraudulent information from appearing on your credit report if you take the following steps: Send them a copy of an [identity theft report](#) and a letter telling them what information is fraudulent. The letter also should state that the information does not relate to any transaction that you made or authorized. In addition, provide proof of your identity that may include your SSN, name, address, and other personal information requested by the consumer reporting company.

The consumer reporting company has four business days to block the fraudulent information after accepting your identity theft report. It also must tell the information provider that it has blocked the information. The consumer reporting company may refuse to block the information or remove the block if, for example, you have not told the truth about your identity theft. If the consumer reporting company removes the block or refuses to place the block, it must let you know.

The blocking process is only one way for identity theft victims to deal with fraudulent information. There's also the "reinvestigation process," which was designed to help all consumers dispute errors or inaccuracies on their credit reports. For more information on this process, see [How to Dispute Credit Report Errors](#) and [Your Access to Free Credit Reports](#), two publications from the

FTC.

### *Information Provider Obligations*

Information providers stop reporting fraudulent information to the consumer reporting companies once you send them an identity theft report and a letter explaining that the information that they're reporting resulted from identity theft. But you must send your identity theft report and letter to the address specified by the information provider. Note that the information provider may continue to report the information if it later learns that the information does not result from identity theft.

If a consumer reporting company tells an information provider that it has blocked fraudulent information in your credit report, the information provider may not continue to report that information to the consumer reporting company. The information provider also may not hire someone to collect the debt that relates to the fraudulent account, or sell that debt to anyone else who would try to collect it.

#### Sample Blocking Letter Consumer Reporting Company

Date

Your Name

Your Address

Your City, State, Zip Code

Complaint Department

Name of Consumer Reporting Company

Address

City, State, Zip Code

Dear Sir or Madam:

I am a victim of identity theft. I am writing to request that you block the following fraudulent information in my file. This information does not relate to any transaction that I have made. The items also are circled on the attached copy of the report I received. (Identify item(s) to be blocked by name of source, such as creditors or tax court, and identify type of item, such as credit account, judgment, etc.)

Enclosed is a copy of the law enforcement report regarding my identity theft. Please let me know if you need any other information from me to block this information on my credit report.

Sincerely,

Your name

Enclosures: (List what you are enclosing.)

Credit Cards

The Fair Credit Billing Act establishes procedures for resolving billing errors on your credit card accounts, including fraudulent charges on your accounts. The law also limits your liability for unauthorized

Information to attack or support a witness' character for truthfulness

Subject: (no subject)

for proffering that evidence is to attack or support the witness' character for truthfulness. See *United States v. Abel*, 469 U.S. 45 (1984); *United States v. Fusco*, 748 F.2d 996 (5

th

Cir. 1984) (**Rule**

608(b) limits the use of evidence "designed to show that the witness has done things, unrelated to the suit being tried, that make him more or less believable *per se*"); Ohio R.Evid. 608(b). On occasion the

**Rule's** use of the overbroad term "credibility" has been read "to bar extrinsic evidence for bias, competency and contradiction

impeachment since they too deal with credibility." American Bar

Association Section of Litigation, *Emerging Problems Under the Federal Rules of Evidence* at 161 (3d ed. 1998). The amendment

restores the **Rule** to its original intent, which was to impose an

absolute bar on extrinsic evidence only if the sole purpose for offering

the evidence was to prove the witness' character for veracity. See

Advisory Committee Note to **Rule 608(b)** (stating that the **Rule** is

"[i]n conformity with **Rule 405**, which forecloses use of evidence of

specific incidents as proof in chief of character unless character is an issue in the case . . .").

By limiting the application of the **Rule** to proof of a witness' character for truthfulness, the amendment leaves the admissibility of extrinsic evidence offered for other grounds of impeachment (such as contradiction, prior inconsistent statement, bias and mental capacity)

to Rules 402 and 403. *See, e.g., United States v. Winchenbach*, 197

F.3d 548 (1

st

Cir. 1999) (admissibility of a prior inconsistent statement offered for impeachment is governed by Rules 402 and 403, not **Rule 608(b)**); *United States v. Tarantino*, 846 F.2d 1384 (D.C. Cir. 1988) (admissibility of extrinsic evidence offered to contradict a witness is governed by Rules 402 and 403); *United States v. Lindemann*, 85 F.3d 1232 (7

th

Cir. 1996) (admissibility of extrinsic

4

## FEDERAL RULES OF EVIDENCE

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evidence of bias is governed by Rules 402 and 403). Rules 402 and 403 displace the common-law rules prohibiting impeachment on "collateral" matters. *See* 4 Weinstein's Evidence, § 607.06[3][b][ii] (2d ed. 2000) (advocating that courts substitute "the discretion approach of **Rule 403** for the collateral test advocated by case law").

It should be noted that the extrinsic evidence prohibition of **Rule**

608(b) bars any reference to the consequences that a witness might

have suffered as a result of an alleged bad act. For example, **Rule**

608(b) prohibits counsel from mentioning that a witness was

suspended or disciplined for the conduct that is the subject of

impeachment, when that conduct is offered only to prove the

character of the witness. *See United States v. Davis*, 183 F.3d 231,

257, n. 12 (3d Cir. 1999) (emphasizing that in attacking the

defendant's character for truthfulness "the government cannot make

reference to Davis's forty-four daysuspension or that Internal Affairs

found that he lied about"an incident because "[s]uch evidence would

not onlybe hearsayto the extent it contains assertion of fact, it would

be inadmissible extrinsic evidence under **Rule 608(b)"**). *See also*

Stephen A. Saltzburg, *Impeaching the Witness: Prior Bad Acts and*

*Extrinsic Evidence*, 7 Crim. Just. 28, 31 (Winter 1993) ("counsel

should not be permitted to circumvent the no-extrinsic-evidence

provision by tucking a third person's opinion about prior acts into a

question asked of the witness who has denied the act").

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### **Rule 804. Hearsay Exceptions; Declarant Unavailable**

\* \* \* \* \*

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(b) Hearsay exceptions. The following are not

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excluded by the hearsay **rule** if the declarant is unavailable as

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a witness:

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\* \* \* \* \*

5

(3) Statement against interest. A statement which

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was at the time of its making so far contrary to the

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declarant's pecuniary or proprietary interest, or so far

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tended to subject the declarant to civil or criminal

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liability, or to render invalid a claim by the declarant

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against another, that a reasonable person in the

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declarant's position would not have made the statement

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unless believing it to be true. A statement tending to

13

expose the declarant to criminal liability and offered to

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6

FEDERAL RULES OF EVIDENCE

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exculpate the accused is not admissible unless

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corroborating circumstances clearly indicate the

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trustworthiness of the statement.

17

\* \* \* \* \*

18

**COMMITTEE NOTE**

The second sentence of **Rule 804(b)(3)** has been amended to provide that the corroborating circumstances requirement applies to all declarations against penal interest, whether proffered in civil or criminal cases. *See Ky.R.Evid. 804(b)(3); Tex. R.Evid. 804(b)(3).*

Most courts have applied the corroborating circumstances requirement to declarations against penal interest offered by the prosecution, even though the text of the **Rule** did not so provide. *See, e.g., United States v. Alvarez*, 584 F.2d 694, 701 (5

th

Cir. 1978) (“by transplanting the language governing exculpatory statements onto the analysis for admitting inculpatory hearsay, a unitary standard is derived which offers the most workable basis for applying **Rule 804(b)(3)**”); *United States v. Garcia*, 897 F.2d 1413 (7

th

Cir. 1990)

(requiring corroborating circumstances for against-penal-interest statements offered by the government). The corroborating circumstances requirement has also been applied to declarations against penal interest offered in a civil case. *See, e.g., American Automotive Accessories, Inc. v. Fishman*, 175 F.3d 534, 541 (7

th

Cir.

1999) (noting the advantage of a “unitary standard” for admissibility of declarations against penal interest). This unitary approach to

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## FEDERAL RULES OF EVIDENCE

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declarations against penal interest assures all litigants that only reliable hearsay statements will be admitted under the exception.

The Committee notes that there has been some confusion over the meaning of the “corroborating circumstances” requirement. *See United States v. Garcia*, 897 F.2d 1413, 1420 (7

th

Cir. 1990) (“the precise meaning of the corroboration requirement in **rule 804(b)(3)** is uncertain”). For example, some courts look to whether independent evidence supports or contradicts the declarant’s statement. *See, e.g., United State v. Mines*, 894 F.2d 403 (4

th

Cir. 1990) (corroborating

circumstances requirement not met because other evidence contradicts the declarant's account). Other courts hold that independent evidence is irrelevant and the court must focus only on the circumstances under which the statement was made. *See, e.g.*,

*United States v. Barone*, 114 F.3d 1284, 1300 (1

st

Cir. 1997) ("The corroboration that is required by **Rule 804(b)(3)** is not independent evidence supporting the truth of the matters asserted by the hearsay statements, but evidence that clearly indicates that the statements are worthy of belief, based upon the circumstances in which the statements were made.").

The case law identifies some factors that may be useful to consider in determining whether corroborating circumstances clearly indicate the trustworthiness of the statement. Those factors include

(*see, e.g.*, *United States v. Bumpass*, 60 F.3d 1099, 1102 (4

th

Cir.

1995)):

(1) the timing and circumstances under which the statement was made;

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8

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(2) the declarant's motive in making the statement and whether

there was a reason for the declarant to lie;

(3) whether the declarant repeated the statement and did so

consistently, even under different circumstances;

(4) the party or parties to whom the statement was made;

(5) the relationship between the declarant and the opponent of

the evidence; and

(6) the nature and strength of independent evidence relevant to

the conduct in question.

Other factors may be pertinent under the circumstances. The

credibility of the witness who relates the statement in court is not,

however, a proper factor for the court to consider in assessing

corroborating circumstances. To base admission or exclusion of a

hearsay statement on the credibility of the witness would usurp the

jury's role in assessing the credibility of testifying witnesses. *United*

*States v. Katsougrakis*, 715 F.2d 769 (2d Cir. 1985).

The corroborating circumstances requirement assumes that the

court has already found that the hearsay statement is genuinely

disserving of the declarant's penal interest. See *Williamson v. United*

*States*, 512 U.S. 594, 603 (1994) (statement must be "squarely self-

inculpatory" to be admissible under **Rule 804(b)(3)**). "Corroborating

circumstances" therefore must be independent from the fact that the

statement tends to subject the declarant to criminal liability. The

"against penal interest" factor should not be double-counted as a corroborating circumstance.

Information on FOIA, etc.

**Subject: re compliance**

[Code of Federal Regulations]  
[Title 11, Volume 1]  
[Revised as of January 1, 2003]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 11CFR111.42]

[Page 190]

TITLE 11--FEDERAL ELECTIONS

CHAPTER I--FEDERAL ELECTION COMMISSION

PART 111--COMPLIANCE PROCEDURE (2 U.S.C. 437g, 437d(a))--Table of Contents

Subpart B--Administrative Fines

Sec. 111.42 Will the enforcement file be made available to the public?

(a) Yes; the Commission shall make the enforcement file available to the public.

(b) If neither the Commission nor the respondent commences a civil action, the Commission shall make the enforcement file available to the public pursuant to 11 CFR 4.4(a)(3).

(c) If a civil action is commenced, the Commission shall make the enforcement file available pursuant to 11 CFR 111.20(c).

Here is the law re: forensic accounting

**Subject: re:forensic c.u.s.i.p. accounting for jill louise bennett**

**GOVERNMENT CODE  
SECTION 11120-11132**

11120. It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that

it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act.

54950. In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created